

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-213560

DATE: April 3, 1984

MATTER OF: Lieutenant Joseph L. Stager, USN

DIGEST:

Where a member of the Navy, who is assigned to quarters of the United States, leaves his old station pursuant to permanent change-of-station orders prior to the original departure date, he may be paid a basic allowance for quarters commencing with his departure even though his formal assignment to quarters was not terminated because he left unaccompanied baggage in the quarters.

The question is (when does a basic allowance for quarters commence for a member who vacates Government quarters incident to a change of permanent station prior to official termination of the assignment to quarters?¹ A basic allowance for quarters commences for the member when he departs the old station pursuant to valid change-of-station orders regardless of whether the assignment to Government quarters has been officially terminated.)

Lieutenant Joseph L. Stager, USN, was scheduled to depart from the U.S. Navy Public Works Center, Guam, on March 16, 1983. He had been assigned to Government quarters at that facility. For personal reasons he and his dependents actually departed Guam on March 7, 1983. This earlier departure presumably was under orders and sanctioned by the proper authorities. By prior arrangement unaccompanied baggage was left in the house until March 11, 1983, and the assignment to Government quarters was terminated on March 14, 1983. Lieutenant Stager indicates that according to the prior arrangements he was to have vacated the quarters on March 14 and to have gone into a temporary lodging allowance status until March 16.

¹This question was presented by the Disbursing Officer, Personnel Support Activity Detachment, Albuquerque, New Mexico, and forwarded to us by the Commander, Navy Accounting and Finance Center, Washington, D.C. The matter has been assigned submission number DO-N-1428 by the Department of Defense Military Pay and Allowance Committee.

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Initially, it was determined that Lieutenant Stager's entitlement to a basic allowance for quarters commenced on March 14, 1983, the date that his assignment to Government quarters was terminated. Subsequently, the date of entitlement was changed to March 11, 1983, when his unaccompanied baggage was removed from the quarters. Lieutenant Stager contends that his basic allowance for quarters should be computed from March 7, 1983, the date he actually vacated the quarters.

A member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for quarters. 37 U.S.C. 403(a)(1). If a member is assigned to quarters of the United States appropriate to his or her grade, rank, or rating and adequate for himself, and his dependents, if with dependents, he is not entitled to a basic allowance for quarters. 37 U.S.C. 403(b), 50 Comp. Gen. 174 (1970).

Paragraph 30205 of the Department of Defense Military Pay and Allowances Entitlements Manual provides in part that the base or installation commander assigns and terminates quarters. The submission does not indicate whether the Navy has any regulation setting out the policy of the Navy with regard to quarters assignment.

We recognize that Government quarters should be utilized to the fullest extent possible. We also recognize the member's responsibility to place the quarters in an acceptable condition on the termination of the assignment to those quarters, including the removal of all personal items from the quarters.

Presumably the termination of the assignment of quarters for Lieutenant Stager was based on his projected departure from the station. This was changed to the date the unaccompanied baggage was removed from the quarters. Apparently, the rationale followed in this case was that since his property was still in the house, the quarters should remain assigned to him until they could be assigned to another individual. As a result Lieutenant Stager was not entitled to basic allowance for quarters until the assignment was terminated.

Although we find no prior decisions which would be helpful in resolving the question presented and although the

determination of the agency concerned is usually followed in resolving doubtful cases it seems clear to us that in this situation that the member's assignment to quarters should be terminated at the time he commences his permanent change-of-station travel pursuant to valid orders. We do not think that the need to keep Government quarters utilized to the fullest extent overrides the requirement of 37 U.S.C. 403 that a member is entitled to a basic allowance for quarters or be provided housing by the Government.

We find this to be the most reasonable solution to the problem because it seems that a member cannot be considered to be occupying quarters when he and his dependents have departed the old post under permanent change-of-station orders. After that date the quarters, whether available for reassignment or not, are not available for occupancy by the member and his dependents. Accordingly, Lieutenant Stager's assignment to quarters should have been terminated when he and his dependents vacated the quarters and commenced travel and he is entitled to a basic allowance for quarters from the time the termination should have occurred.

for Milton J. Fowler
Comptroller General
of the United States